

**From:** Boyd, Andrew  
**Sent time:** 11/20/2015 03:36:33 PM  
**To:** Connery, Shannon  
**Subject:** FW: Proposed FMC Special Account Agreement and Modification to UAO for RD/RA / For FOIA  
**Attachments:** FMC DRAFT Agreement and Mod to UAO for special account 11 20 15.pdf

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**From:** Boyd, Andrew  
**Sent:** Friday, November 20, 2015 3:36 PM  
**To:** David Heineck (davidh@SummitLaw.com) <davidh@SummitLaw.com>  
**Subject:** Proposed FMC Special Account Agreement and Modification to UAO for RD/RA

David

The proposed document for establishing a special account for RD/RA UAO costs is attached. We would like to do the same for the 2010 Removal Action UAO.

Let me know if the document is acceptable to FMC. Once we have agreement I can provide final documents for signature by an authorized FMC official.

Please call if you have any questions or concerns. We appreciate FMC's assistance and cooperation in this matter.

Andy

Andrew Boyd  
U.S. EPA, Region 10  
Tel: (206) 553-1222  
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SENSITIVE COMMUNICATION INTENDED ONLY  
FOR USE OF RECIPIENTS NAMED ABOVE

**DRAFT FOR DISCUSSION PURPOSES ONLY**

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 10**

IN THE MATTER OF:

FMC Operable Unit of the Eastern Michaud  
Flats Superfund Site

FMC Corporation,

Respondent.

UNILATERAL ADMINISTRATIVE  
ORDER FOR REMEDIAL DESIGN AND  
REMEDIAL ACTION

EPA Docket No. CERCLA-10-2103-0116

Proceedings under Section 106(a)  
and 122(b)(3) of the Comprehensive  
Environmental Response, Compensation,  
and Liability Act, 42 U.S.C. § 9606(a).

**AGREEMENT AND FIRST MODIFICATION TO ADMINISTRATIVE ORDER  
REGARDING RESPONSE COST PAYMENTS TO BE PLACED IN SPECIAL  
ACCOUNT**

1. The U.S. Environmental Protection Agency (EPA) issued Unilateral Administrative Order for Remedial Design and Remedial Action, EPA Docket No. CERCLA-10-2103-0116 (Order), to FMC Corporation as the Respondent on June 10, 2013 for FMC Operable Unit of the Eastern Michaud Flats Superfund Site.
2. By letter of June 20, 2013, Respondent provided its notice of intent to comply with the Order. Respondent has been performing the Remedial Design and Remedial Action work for the FMC Operable Unit.
3. The Order provided in Section XXII that response costs include the EPA costs incurred in overseeing Respondent's implementation of the Order. The Order provided in Section XXII on "Payment of Response Costs" that Respondent "shall pay EPA all Response Costs incurred or to be incurred in connection with this Order."
4. The Respondent agrees to pay EPA all Response Costs, as defined in Section XXII of the Order, to be incurred in connection with the Order. The EPA and the Respondent agree that all EPA response costs paid by Respondent from the date of this Agreement forward, may be deposited by the EPA in the Eastern Michaud Flats Superfund Site/FMC Operable Unit Special Account 105X to be retained and used to

conduct or finance response action at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

5. The Respondent is advised that violation of Paragraph 4 may subject it to civil penalties as provided in sections 109 and 122 of CERCLA, 42 U.S.C. §§ 9606 and 9622.
6. The scope of this Agreement is limited to the matters addressed above. All other provisions of the Order remain in full force and effect to the extent not superseded by the limited terms of this Agreement. Beyond the terms of this Agreement, nothing herein changes Respondent's statements in its June 20, 2013 letter of intent, and Respondent reserves all of its rights and defenses with regard to the Order.

So Agreed and Ordered, this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

By: \_\_\_\_\_  
EPA/ ECL Office Director

And Agreed to by:

\_\_\_\_\_  
FMC Corporation Authorized Official